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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/658,705 | 09/09/2003 | Robert Lombari | 0263421-0042 | 2309 |
| 24280 | 7590 | 09/14/2004 | EXAMINER | |
| Choate, Hall & Stewart Exchange Place 53 State Street Boston, MA 02109 | | | BRINSON, PATRICK F | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3752 | |
| DATE MAILED: 09/14/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/658,705 | Applicant(s) LOMBARI ET AL. | |
| | Examiner Patrick F. Brinson | Art Unit 3752 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter recited in claims 8 and 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1, 5, 11, 12, 15 and 16 are objected to because of the following informalities: These claims recite “notch” for providing fluidic communication between an interior of the tube and the interior of the diaphragm, however the specification describes the means for providing fluid communication as a “slot”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-8, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,063,470 to **Forster**.

The patent to **Forster** discloses a pressure assembly having a passage fitting (16) providing fluidic communication between an interior and an exterior of the pressure assembly an a water chamber, including a tube (7) having first and second ends, with a plurality of notches or apertures (8). A cylindrical diaphragm (13) disposed about the tube, wherein the apertures (8) provide

fluidic communication between an interior of the tube and the interior of the diaphragm. Collar (11) provides fluidic communication between the passage fitting and the interior of the tube, wherein a first end of the diaphragm is sealingly fitted to a portion of the collar, as recited in claim 1. A valve (5) provides controllable fluidic communication between an exterior of the tank and a space (18) between the pressure assembly and the diaphragm, as recited in claim 2. A portion of the collar has an outer diameter that is approximately equal to the inner diameter of the diaphragm, as recited in claim 4. The opposite end of the diaphragm is sealingly engaged to cap (11), as recited in claim 6, and the cap is sealingly engaged to the second end of the tube portion (10), as recited in claim 7.

4. Claims 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,744,527 to **Mercier**.

The **Mercier** reference discloses a water chamber for an expansion tank comprising a tube (50) having first and second ends, a collar (37b) disposed at one end of the tube a cap (37a) at the second end and a resilient diaphragm (30) having first and second ends wherein the first end of the diaphragm is sealingly fitted about the collar and the second end of the diaphragm is sealingly fitted about the cap, as recited in claim 14. The tube has a plurality notches or

apertures (53) providing fluidic communication between the interior of the tube and the interior of the diaphragm, as recited in claims 15 and 16. The collar (37b) has two portions having different exterior diameters, with the exterior of one of the portions being the same as the exterior diameter of the cap (37a), as recited in claim 17, with the cap (37a) is sealingly attached to the second end of the tube, as recited in claim 18.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Forster**.

The patent to **Forster** discloses the recited subject matter as discussed in preceding paragraph # 2, but does not disclose the pressure assembly comprising first and second domes joined by a welded joint to form a chamber. Forster discloses pieces (14 and 15) being welded together to form the assembly, with fittings (16) provided to the ends of the assembly. At the time the invention was made, it would have been an

obvious matter of design choice to a person of ordinary skill in the art to form the assembly of two welded domes because Applicant has not disclosed that this structure provides an advantage, is used for a particular purpose, or solves a stated problem.

One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the configuration and structure disclosed by **Forster**. Therefore, it would have been an obvious matter of design choice to modify Forster to obtain the invention as specified in claims 3 and 9.

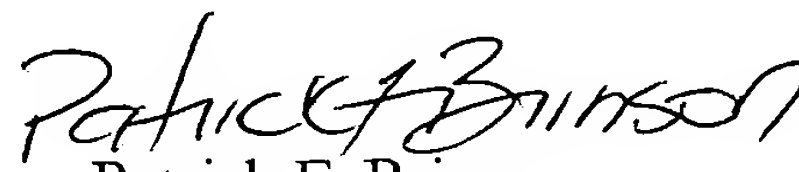
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Hewitt et al., Patton et al., Sugimura et al., Arendt, Sugimura '077 and '176, Ellis, Janski, Jr. et al., and Shiery are all pertinent to Applicant's invention in disclosing pulse dampening devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. Effective November 22, 2004, the telephone # will be (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson
Primary Examiner
Art Unit 3752

P. F. Brinson
September 11, 2004